

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MARK SHANNON WHEELER,)
AIS# 139044)
Plaintiff,)
)
)
v.) Case #2:06-CV-274-MHT
)
)
)
BILL SEGREST,)
)
Defendant.)

RESPONSE TO SHOW CAUSE ORDER DATED AUGUST 14TH, 2006

COME NOW, the Defendant, William Segrest, by and through counsel, and show unto the Court as follows:

- 1) This situation has obviously inconvenienced the Court and is embarrassing to counsel, but counsel assures the Court that the causes were not for that intention, nor to frustrate either the Court or the other party.

- 2) Counsel accepts full responsibility for any delay in the Defendant's responses to Court Orders.
- 3) Defendants respectfully suggest that the pleadings and documents submitted by Plaintiff fail to state a claim against the Defendant (William Segrest), in that he lacks the authority to grant the relief sought by the Plaintiff and took no action that resulted in the matters that are the basis of Plaintiff's claims.
- 4) Plaintiff will not be prejudiced by the delay, in that, the relief he seeks is to have a parole consideration date set for 2008, instead of his current date in 2010. Nor will the Plaintiff be prejudiced by the delay in regards to the other injunctive relief he seeks. Even if he is granted all the relief he seeks he will not come up for parole consideration until 2008.
- 5) The undersigned counsel personally apologizes for the error that created the delay. The error should not be attributed to the Defendant or to

counsel's staff. Counsel failed to implement adequate internal procedures to insure such errors would not occur.

- 6) The Defendant and his counsel intend to cooperate and comply with the Court's orders, and do not intend or seek to frustrate the Court or the Plaintiff regarding this case.
- 7) Defendants respectfully suggest that sanctions ought not be imposed because the oversight was not a willful neglect for the Court's authority; because the failure to timely comply did not prejudice Plaintiff's ability to prosecute his claims on their merits; because the delay did not result in any surprise or otherwise hinder Plaintiff in presenting his claims; because counsel has accepted responsibility for failure to adequately establish internal safeguards to prevent such delays and because the error has now been corrected.
- 8) Upon filing of Plaintiff's response to this supplemental special report, this matter will be ripe for adjudication on the issues presented.

Respectfully submitted,

TROY KING
ATTORNEY GENERAL

GREGORY O. GRIFFIN, SR.
CHIEF COUNSEL

s/STEVEN M. SIRMON
ASSISTANT ATTORNEY GENERAL
State Bar#: ASB-5949-S61S
Ala. Bd. Pardons and Paroles
P.O. Box 302405
Montgomery, Alabama 36130
Telephone: (334) 242-8700
Fax: (334) 353-4423
Steve.Sirmon@alabpp.gov

CERTIFICATE OF SERVICE

I hereby certify that on 9-11-2006 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: (None), and I hereby certify that on 9-11-2006 I mailed , by United States Postal Service, the document to the following non-CM/ECF participants:

**MARK SHANNON WHEELER
AIS #139044
KILBY CORRECTIONAL FACILITY
P.O. BOX 150
MT. MEIGS, AL 36057**

Done this 11th day of **SEPTEMBER 2006**.

Respectfully submitted,

s/ STEVEN M. SIRMON
ASSISTANT ATTORNEY GENERAL
State Bar#: ASB-5949-S61S
Ala. Bd. Pardons and Paroles
301 South RIPLEY Street
P.O. Box 302405
Montgomery, Alabama 36130
Telephone: (334) 242-8700
Fax: (334) 353-4423
steve.sirmon@alabpp.gov